



VOTING RIGHTS LITIGATION: POST-ELECTION CASES
 UPDATED 11/9/20

STATE/CASE	ISSUE(S)	DEVELOPMENTS
PENNSYLVANIA		
<p><i>Republican Party of Pennsylvania v. Boockvar</i>, No. 20-542 (U.S.)</p> <p>(Motion for an emergency injunction is No. 20A84)</p>	<p>The Trump campaign claims that a state supreme court ruling that extended the mail-in ballot receipt deadline to November 6 violates the Elections/Electors Clause of the U.S. Constitution.</p> <p>The Court previously declined to issue a stay and refused to expedite briefing in the case.</p>	<p style="text-align: right;">11:00am 11/9</p> <p>Awaiting action by the Supreme Court on the Trump campaign's motion to intervene and motion to segregate late-arriving ballots and cease counting.</p> <p style="text-align: right;">11/9</p> <p>The Republican Party of Pennsylvania filed a reply to the state's updated notice, arguing that the court should issue an injunction notwithstanding the state's representations that county boards of election are segregating ballots.</p> <p style="text-align: right;">11/8</p> <p>The state provided updated notice to the Court, confirming that all county boards of election are complying with the Secretary's segregation guidance.</p> <p>----</p> <p style="text-align: right;">11/7</p> <p>Responses filed by the state and Luzerne County Board of Elections.</p> <p>--</p> <p style="text-align: right;">11/6</p> <p>Response to application for injunction filed by the PA Democratic Party.</p> <p>Justice Alito ordered that county boards segregate ballots arriving after Election Day. But his order does not appear to preclude counting.</p> <p>Reply in Support of Motion for Leave to Intervene as Petitioner of Donald J.</p>

		<p>Trump for President, Inc. submitted.</p> <p>The Republican Party of Pennsylvania moved for an emergency injunction (No. 20A84) from the Supreme Court, asking that “The Court...order [Pennsylvania] county boards of elections, pending certiorari review or further order of this Court, to log, to segregate, and otherwise not to take any action related to mail-in or civilian absentee ballots that arrive after the General Assembly’s Election Day received-by deadline but before the Pennsylvania Supreme Court’s judicially extended deadline.”</p> <p>--</p> <p style="text-align: center;">11/5</p> <p>The Luzerne County Board filed a brief that takes no position on intervention.</p> <p>The PA Democratic Party filed a brief that does not oppose intervention but simply argues that the court need not decide the motion until it rules on the cert petition.</p> <p>The state filed a response opposing the Trump campaign’s motion.</p> <p>The Republican party consented to the Trump campaign’s intervention.</p> <p>The Supreme Court ordered a response to be filed</p> <p>Trump filed a motion to intervene before the Supreme Court.</p>
<p><i>In re Canvassing Observation, No. 425 EAL 2020 (Pa. Supreme Court)</i></p> <p>(The Philadelphia County case)</p>	<p>Trump campaign argues that counting should temporarily stop until observers are given greater access to watch the ballot count.</p> <p>The Trump campaign claims to want “meaningful” access to observe the ballot count.</p> <p>Contemporaneous coverage of lower court proceedings here: https://twitter.com/broadandmarket/status/1323794598951587841?s=21</p>	<p style="text-align: center;">10:00pm 11/8</p> <p>Awaiting action from the PA Supreme Court on the city’s petition to appeal.</p> <p>--</p> <p style="text-align: center;">11/5</p> <p>The city petitioned the Pennsylvania Supreme Court to allow an appeal. Counting temporarily stopped and then restarted while officials made plans to accommodate the Commonwealth Court’s order.</p> <p>The Pennsylvania Democratic Party filed a letter supporting the Board’s appeal.</p> <p>The Trump campaign filed an answer.</p> <p>Though not on the docket, reporters claimed there was a hearing at 2pm 11/5. https://twitter.com/BroadAndMarket/status/1324426044477218816?s=20</p>

		<p>Trump campaign filed a reply.</p> <p>The Commonwealth Court reversed the trial court, ordering that observers be allowed to stand as close as 6 feet away from canvassers. The Commonwealth Court found that the representative was deprived of the ability to observe “in any meaningful way.” The court did <u>not</u> order the count to stop.</p> <p>The parties filed briefs at 8am.</p> <p>--</p> <p style="text-align: right;">11/4</p> <p>Trump campaign appealed a ruling by Election Day judge that denied greater access.</p> <p>A status conference was held.</p>
<p>Donald J. Trump for President Inc. v. Boockvar, No. 602 MD 2020 (Commonwealth Court of Pennsylvania)</p> <p>(“HAVA” Case)</p>	<p>The Trump campaign claims that Secretary Boockvar issued guidance that impermissibly extends the statutory period for absentee and mail-in voters to provide proof of identification.</p> <p>In their complaint, the Trump campaign explicitly accepts that ballots can continue to be counted after Election Day.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Awaiting filing of briefs on Tuesday, 11/10 at 12pm and further court action.</p> <p>--</p> <p style="text-align: right;">11/6</p> <p>The court ordered briefs to be filed by 12pm on Tuesday, 11/10.</p> <p>The DNC moved to intervene</p> <p>The Commonwealth Court entered an interim order that county boards of elections segregate ballots for which ID is received and verified on November 10, 11, and 12 and not count those ballots until further order of the court.</p> <p>--</p> <p style="text-align: right;">11/5</p> <p>A status conference was held at 10:00am.</p> <p>A status conference was held at 12:00pm.</p> <p style="text-align: right;">11/4</p> <p>Petition for review filed.</p>

<p>Hamm v. Boockvar, No. 600 MD 2020 (Commonwealth Ct. of Pa.)</p> <p>("Harrisburg" case)</p>	<p>Plaintiffs (including a member of the PA House) challenge guidance recently issued by Secretary Boockvar, arguing that her instruction that county boards of election communicate with voters whose ballots are found to be deficient during the pre-canvass process violates state law.</p> <p>In the plaintiffs' view, this process, as well as any process allowing voters to "cure" their vote through casting a provisional ballot, violates Pennsylvania law. They ask the court to enjoin the Secretary from allowing invalidly "cured" ballots to be counted in the vote totals.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Awaiting further order of the court.</p> <p>--</p> <p style="text-align: right;">11/6</p> <p>Commonwealth Court granted in part the petitioners' request for a preliminary injunction: County boards of elections must segregate provisional ballots cast on election day where the electors' absentee ballot was received previously. The case is stayed pending further order of the court.</p> <p>A hearing on the plaintiffs' preliminary injunction motion was scheduled for Fri 11/6 at 9:30am, but did not appear to have occurred.</p> <p>Petitioners' brief was filed; response from state was filed 8am</p> <p>Intervenor-DNC filed response in opposition to PI</p> <p style="text-align: right;">11/5</p> <p>Another status conference was scheduled for 10am.</p> <p>Petitioners filed amended petitions and the DNC moved to intervene.</p> <p style="text-align: right;">11/4</p> <p>Status conference was scheduled for 1:30.</p> <p style="text-align: right;">11/3</p> <p>Case filed.</p>
<p>Donald J. Trump for President, Inc. v. Montgomery County Board of Elections, No. 2020-18680 (Montgomery County Court of Common Pleas)</p>	<p>The Trump campaign is challenging the validity of around 600 ballots that it alleges have been counted despite having certain deficiencies on the outer envelope that is verified during the pre-canvassing process (the voter's signature, address, and/or date of execution)</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Awaiting further court action.</p> <p>--</p> <p style="text-align: right;">11/6</p> <p>The DNC has moved to intervene.</p>

		-- 11/5 Case was filed.
Miller v. Delaware County Board of Elections, No. CV-2020-007458 (Ct. Common Pleas, Del. Cty.) (Drop box case)	Two voters challenged Delaware County's use of drop boxes, arguing that the county had not instituted procedures to ensure that ballots will not be deposited after polls close at 8pm. They based this allegation "upon information and belief." The plaintiffs argue that Delaware County's "comingling" of late ballots with validly cast ballots violates Pennsylvania statutory law.	10:00pm 11/8 It appears no appeal has been filed. -- 11/3 11/3 - The case was dismissed without prejudice and does not appear to have been renewed.
In re: Motion for Injunctive Relief of the Northampton County Republican Committee, No. 1100 CD 2020 (Commonwealth Court of Pa.)	The Northampton County Republican Committee made an oral motion to stop the county board of elections from disclosing the identity of cancelled ballots during the pre-canvass process. The court denied that motion. Reported: The Northampton County Republican Committee will ask an appeals court to block the local elections board from disclosing the identity of cancelled ballots (presumably so the errors can be fixed).	10:00pm 11/8 Expecting no further action. -- 11/6 Action withdrawn The DNC moved to intervene. Briefs were filed at 3pm -- 11/5 An appeal was filed to the Commonwealth Court.
Donald J. Trump for President, Inc. v. Philadelphia County Board of Elections, No. 20-cv-5533 (E.D. Pa.)	The Trump campaign has sued to force the Philadelphia County Board of Elections to comply with the Commonwealth Court's order allowing greater access for poll	10:00pm 11/8 Expecting no further court action. --

	<p>watchers. The campaign asserts that the county board's violation of that order contravenes the Fourteenth Amendment's Due Process Clause. The entire complaint is just over one page in length.</p>	<p style="text-align: right;">11/5</p> <p>Complaint was filed late afternoon.</p> <p>Judge Diamond held a hearing at 5:30pm and then denied the request for an injunction w/o prejudice.</p>
<p><i>Barnette v. Lawrence, No. 20-cv-5477 (E.D. Pa.)</i> (Montgomery County Case)</p>	<p>A Pennsylvania voter and a Fourth Congressional District candidate have sued in federal court, seeking to stop Montgomery County officials from contacting voters with deficient ballots and permitting them to cure deficiencies. They also ask the court to spoil any ballots that have been cured.</p> <p>The plaintiffs argue that Montgomery County officials are violating the Equal Protection Clause by arbitrarily allowing some voters a cure opportunity while denying that same opportunity to other voters. At a hearing, the judge appeared disinclined to endorse the plaintiffs' view of the law.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Expecting no further court action.</p> <p style="text-align: right;">11/6</p> <p>Judge Savage entered an order denying the plaintiffs' motion for a TRO. --</p> <p style="text-align: right;">11/5</p> <p>Plaintiffs filed a supplemental motion in support of their TRO.</p> <p>The plaintiffs filed a motion to withdraw their TRO motion, noting that the schedule set by the court would not allow relief to be granted in a timely manner.</p> <p>Democratic party filed a brief opposing the TRO motion. --</p> <p style="text-align: right;">11/4</p> <p>A hearing was held, but no decision is expected until Friday at the earliest. --</p> <p style="text-align: right;">11/3</p> <p>The complaint was filed.</p> <p>TRO motion was filed.</p>
<p><i>In re Pre-Canvass of Absentee and Mail-in Ballot of November 3, 2020 General Election,</i> (Bucks County Case)</p>	<p>Plaintiffs argued that the Bucks County Board of Elections permitted the disclosure of pre-canvass results by sharing certain information about deficient ballots. They claimed that the Bucks County Board's actions violate Pennsylvania law.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further action expected. --</p> <p style="text-align: right;">11/3</p>

		The case was dismissed Tuesday night.
ARIZONA		
<i>Donald J. Trump for President Inc. v. Hobbs, No. ??? (Maricopa County Superior Court)</i>	The Trump campaign, RNC, and Arizona Republican Party claim that numerous voters were convinced to override “overvote” notifications on an electronic tabulation system. These alleged “overvotes” stem from the use of sharpies to complete the voters’ ballot. The Trump campaign asks that any overvotes be subjected to a hand recount to determine the intent of the voter.	<p style="text-align: right;">10:00pm 11/8</p> <p>Awaiting further filings. --</p> <p style="text-align: right;">11/7</p> <p>Lawsuit filed</p>
<i>Aguilera v. Fontes, No. CV2020-014083 (Maricopa County Superior Court)</i>	<p>The plaintiff claims that her vote was cancelled because she filled out her ballot using a sharpie, and she seeks an opportunity to cure her ballot.</p> <p>This complaint is part of the larger narrative of “#sharpiegate,” a conspiracy that Republican voters were given sharpies to use while voting.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further action expected. --</p> <p>11/7</p> <p>Dismissed voluntarily. --</p> <p>11/6</p> <p>Lawsuit filed.</p> <p>Democratic party intervention.</p> <p>Secretary of state Hobbs filed an amicus brief asking for a hearing to be held within 72 hours.</p> <p>The political parties agreed to ask for an evidentiary hearing next Friday, 11/13. Maricopa County appeared to be fine with an even later hearing, proposing November 24.</p>
GEORGIA		

<p><i>In re: Enforcement of Election Laws and Securing Ballots Cast or Received After 7:00PM on November 3, 2020, No. SPCV 20-00982 (Chatham County Superior Court)</i></p>	<p>Georgia Republican Party and Trump campaign argue that some elections officials may be confusion about whether ballots that arrive after 7:00pm on Election Day can be counted, and to avoid any counting of late ballots they ask the court to order the Chatham County Board of Elections to collect, secure, and safely store all absentee ballots received after 7:00pm on Election Day and provide a list of the names of the voters and the time the ballot was received to the plaintiffs.</p> <p>Per an affidavit in support of the complaint, the plaintiffs are only concerned about 53 potential inter-mixed ballots.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further court action expected. --</p> <p style="text-align: right;">11/5</p> <p>Petition dismissed following hearing. Undisputed evidence was that no late-arriving ballots had been counted and that all late-arriving ballots are being segregated according to Georgia law. --</p> <p style="text-align: right;">11/4</p> <p>Lawsuit filed</p>
<p>MINNESOTA</p>		
<p><i>Carson v. Simon, No. 20-cv-2030 (D. Minn.)</i></p>	<p>Two Republican electors argue that the Secretary of State violated federal law and the Electors Clause by entering into a state-court consent decree in which he agreed not to enforce Minnesota’s Election Day deadline to receive absentee ballots. On 10/11, the district court denied a preliminary injunction on standing grounds, and on 10/19, it denied a stay pending appeal. On 10/29, the 8th Circuit reversed and remanded, ordering ballots to be segregated.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Awaiting further court action. --</p> <p style="text-align: right;">11/5</p> <p>On 11/5, the court denied the motion to certify without prejudice. The court reasoned that there was no request for relief pending before it from any party (ballots have been segregated by order of the 8th Circuit). --</p> <p style="text-align: right;">11/2</p> <p>Intervenors have moved to stay further proceedings and to certify a question to the Minnesota Supreme Court. The certified question would clarify whether the plaintiffs in this case are bound by the Trump campaign and Republican Party’s agreement not to challenge the state-court consent decree in any forum.</p> <p>A response was filed by Republican electors, and a decision could come at any</p>

		time.
MICHIGAN		
Costantino v. City of Detroit, No. ??? (Wayne County Circuit Court)	Plaintiffs have sued to enjoin the certification of the election pending a full investigation and court hearing, and ask for an independent audit of the election results.	<p style="text-align: right;">10:00am 11/9</p> <p>Awaiting further action in the court. --</p> <p style="text-align: right;">11/8</p> <p>Complaint filed.</p>
Davis v. Wayne County Board of Canvassers, No. 20-014601-AW (Wayne County Circuit Court)	A voter has sued, seeking (1) a writ of mandamus to force the Wayne County Board of Canvassers to count and certify <i>all</i> votes cast in the November 3, 2020 general election no later than November 17, and (2) a declaration that no member of the Board may serve as a challenger on behalf of any party during the canvass. The complaint expresses the plaintiff's fear that two Republican members of the Board will delay and interfere with the canvass	<p style="text-align: right;">8:00am 11/9</p> <p>Awaiting further action in the court. --</p> <p style="text-align: right;">11/6</p> <p>Hearing held at 3pm.</p> <p>Response filed by the County Board of Canvassers. --</p> <p style="text-align: right;">11/5</p> <p>Complaint filed.</p> <p>Order to show cause issued.</p>
Donald J. Trump for President, Inc. v. Benson, No. 20-225-MZ (Mich. Ct. Cls.)	<p>Trump campaign has filed a lawsuit in the Michigan Court of Claims to halt the counting of mail-in ballots until they are granted "meaningful access" to observe the opening and counting process.</p> <p>This case resembles one brought in Pennsylvania and appears to be part of a larger effort to stop the count in states where mail-in ballots were cast heavily in favor of Trump.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>Expecting no further action. --</p> <p style="text-align: right;">11/6</p> <p>On 11/6, the court issued a written order memorializing its reasons. The court found that none of the relief requested by the plaintiffs could be ordered as to the Secretary of State, that the record did not support their requests, and that the case was moot given that vote-counting is complete. The court also denied as moot the DNC's motion to intervene.</p>

		<p style="text-align: right;">11/5</p> <p>The court denied relief following a hearing</p> <p>--</p> <p style="text-align: right;">11/4</p> <p>Complaint filed along with motion for emergency declaratory judgment.</p> <p>Case was assigned to Judge Cynthia Dane Stephens.</p> <p>The DNC has moved to intervene.</p>
<p><i>Stoddard v. City Election Commission, No. ??? (Third Judicial Circuit Court, Wayne County)</i></p>	<p>Plaintiffs claim that in Detroit, Democratic inspectors are improperly curing deficient ballots without the participation of a Republican inspector. They ask the Court to halt the improper cure process, order the cured ballots to be segregated, and postpone certification until Republican inspectors can be located to participate in the process. They also seek to segregate any previously cured ballots.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further action expected.</p> <p>--</p> <p style="text-align: right;">11/6</p> <p>The court denied the plaintiffs' motion for relief.</p> <p>The court determined no cause of action had been submitted. Specifically, the court stated there was no evidence offered that a single ballot was improperly submitted, much less evidence establishing the frequency of the error. The court emphasized there were assertions in the complaint but no evidence in support of the assertions. The court further determined that Plaintiff could not establish a showing of concrete, irreparable harm. With respect to this prong, the court noted that Plaintiff will have an opportunity to request a recount if they believe the canvass of the voters suffers from defect or fraud.</p> <p>--</p> <p style="text-align: right;">11/5</p> <p>An amended complaint and TRO were filed today.</p> <p>The DNC moved to intervene.</p> <p>--</p> <p style="text-align: right;">11/4</p> <p>Case was filed late Wednesday evening.</p>
<p>NEVADA</p>		

<p>Stokke v. Cegavske, No. 20cv2046 (D. Nev.)</p>	<p>In a six-page complaint, Republican plaintiffs allege violations of the Elections Clause and Equal Protection Clause based on (1) Clark County’s use of certain signature-verification systems; (2) Clark County’s limitations on poll-watcher access to observe the ballot counting process; and (3) allowing around 3,000 invalid ballots to be cast.</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further action is expected. --</p> <p style="text-align: right;">11/6</p> <p>Case was assigned to Judge Andrew P. Gordon (Obama appointee) in the morning.</p> <p>The DNC moved to intervene.</p> <p>Judge Gordon granted the motion to expedite on 11/6.</p> <p>Responses by the State and the DNC were filed at 3pm. A hearing will be held at 5pm.</p> <p>At a hearing, Judge Gordon denied the plaintiffs’ motion for an injunction. --</p> <p style="text-align: right;">11/5</p> <p>At 11:30am ET, Republican operatives and officials announced a lawsuit seeking to stop the counting of “improper” ballots cast by voters from outside Nevada. The suit is expected to be filed in federal district court.</p> <p>The complaint was filed around 10:00pm. A TRO motion was also filed, requesting that a hearing be scheduled for no later than 5pm on 11/6.</p>
<p>Kraus v. Cegavske, No. 82018 (Nev.)</p>	<p>On 10/23, the Trump campaign and Nevada Republican Party filed a lawsuit seeking to halt mail-in ballot counting in Clark County, Nevada. The plaintiffs argued that Nevada law and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution required Clark County to permit poll watchers to observe and assert challenges to the counting of mail-in ballots. The day that the lawsuit was filed, the state-court judge denied the plaintiffs’ motion for a</p>	<p style="text-align: right;">10:00pm 11/8</p> <p>No further action is expected.</p> <p style="text-align: right;">11/5</p> <p>The parties filed a motion to extend the briefing schedule, to allow time to finalize a settlement agreement. --</p> <p style="text-align: right;">11/3</p> <p>The Nevada Supreme Court denied an injunction pending appeal while also expediting the appeal, ordering briefing that will conclude by November 9. The court’s order recognizes that much of the plaintiffs’ appeal may be moot by the</p>

	<p>temporary restraining order.</p> <p>On 11/2, the same judge denied the plaintiffs' petition for a writ of mandamus. In the judge's view, the plaintiffs' lacked standing to raise their claims and, in any event, their allegations did not establish a violation of state law or the Equal Protection Clause.</p>	<p>time the appeal is fully briefed.</p>
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